

CV 16

0156

DeARY HALL, J.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

REYES, M.J.

MAKEIA McFADDEN,

Plaintiff,

DOCKET NO.

-against-

COLLINS ASSET GROUP, LLC,

Defendant.

X

NOTICE OF REMOVAL OF ACTION

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

2016 JAN 12 PM 3:56

FILED  
CLERK

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. section 1441, et seq. defendant COLLINS ASSET GROUP, LLC (hereinafter referred to as "COLLINS"), hereby removes this civil action from the Civil Court of the City of New York, County of Kings, to the United States District Court for the Eastern District of New York.

I. PROCEEDINGS TO DATE

On or about December 11, 2015, plaintiff, MAKEIA McFADDEN, filed a summons and complaint dated November 18, 2015 in the civil action captioned MAKEAI McFADDEN against COLLINS ASSET GROUP, LLC, Index No. 072921/15, in the Civil Court of the City of New York, County of Kings. Defendant was served with the summons and complaint on December 15, 2015. The complaint alleges a violation of the Fair Debt Collection Practices Act,

and plaintiff seeks statutory and actual damages as well as attorney fees and other relief.

Copies of all pleadings and other papers plaintiff previously filed with the Civil Court, Kings County are annexed hereto as Exhibit "A," as required by 28 U.S.C. Section 1446.

## **II. GROUNDS FOR REMOVAL**

The Court has original jurisdiction over this action because this action arises under a Law of the United States. See 28 U.S.C. Section 1331. This action arises under the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq. (See Exhibit "A") Accordingly, according to 28 U.S.C. Section 1331, this Court has original jurisdiction over this case.

## **III. VENUE**

Plaintiff's action is pending in Civil Court of the City of New York, County of Kings, which is within this judicial district and division. 28 U.S.C. Section 112(c). The United States District Court for the Eastern District of New York is the District Court and Division within which COLLINS may remove this action, pursuant to 28 U.S.C. Section 1441(a) and within which defendant must file this Notice of Removal, pursuant to 28 U.S.C. Section 1446(a).

**IV. TIMELINESS**

This Notice of Removal is timely filed. Defendant has acknowledged service of a copy of the summons and complaint. Plaintiff has not filed any Affidavit of Service. This notice of Removal complies with 28 U.S.C. Section 1446(b).

**V. NOTICE**

Pursuant to 28 U.S.C. Section 1446(b), defendant, COLLINS ASSET GROUP, LLC is simultaneously filing a copy of this Notice of Removal with the Civil Court of the City of New York, County of Kings. Plaintiff's counsel is also being served with a copy of this Notice of Removal.

**VI. CONCLUSION**

For the foregoing reasons, COLLINS ASSET GROUP, LLC respectfully requests that this action, previously pending in the Civil Court of the City of New York, County of Kings be removed to this Court, and that this Court proceed as if this case had been originally initiated in this Court.

Dated: New City, NY  
January 8, 2016

Respectfully submitted,

  
\_\_\_\_\_  
ARTHUR SANDERS, ESQ. (AS-1210)  
BARRON & NEWBURGER, P.C.  
Attorneys for defendant  
30 South Main Street  
New City, NY 10956  
845-499-2990

**EXHIBIT A**

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS

MAKEIA MCFADDEN )  
Plaintiff, )  
-against- )  
COLLINS ASSET GROUP, LLC )  
Defendant. )

Index No. \_\_\_\_\_

**SUMMONS**

Plaintiff's Residence Address: 072921  
130 Lefferts Place, Apt. 2L  
Brooklyn, NY 11238

The basis of the venue designated is:  
Plaintiff resides in Kings County

To the above named defendant:

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Kings, at the office of the Clerk of said Court at 141 Livingston Street, Brooklyn, in the County of Kings, City and State of New York, within the time provided by law as noted below and to file your answer to the annexed complaint with the Clerk; upon failure to answer, judgment will be taken against you for the sum of \$1,000.00 plus attorney's fees and costs as permitted by law, with interest thereon from the 18<sup>th</sup> day of November, 2015.

Dated, November 18, 2015



*M/S*  
Matthew Sarles, Esq.  
Attorneys for Plaintiff  
RC Law Group, PLLC  
285 Passaic Street  
Hackensack, NJ 07601  
Phone: (201) 282-6500 Ext. 224  
Fax: (201) 282-6501

**FILED  
CLERKS OFFICE  
DEC 11 2015  
CIVIL COURT  
KINGS COUNTY**

NOTE: The law provides that:

- (a) If this Summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY (20) days after such service; or
- (b) if this Summons is served by delivery to any other person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY (30) days after the proof of service is filed with the Clerk of this Court within which to appear and answer.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF KINGS

MAKEIA MCFADDEN

Plaintiff,

Index No: \_\_\_\_\_

**COMPLAINT AND DEMAND  
FOR TRIAL BY JURY**

-v.-

COLLINS ASSET GROUP, LLC

Defendant.

Plaintiff Makeia McFadden ("Plaintiff") by and through her attorneys, RC Law Group, PLLC; as and for her Complaint against Defendant Collins Asset Group, LLC ("Defendant"), respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of section 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

**PARTIES**

2. Plaintiff is a resident of the State of New York, County of Kings, residing at 130 Lefferts Place, Apt. 2L, Brooklyn, NY 11238.

3. Defendant is limited liability company organized and existing under the laws of the state of Delaware, with an address at 5725 W Highway 290 Ste 103, Austin, TX 78735,

and is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA.

**FACTUAL ALLEGATIONS**

4. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

5. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff ("Alleged Debt").

6. The Alleged Debt was incurred as a financial obligation that was primarily for personal, family or household purposes and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).

7. The reporting of a debt to a credit reporting agency by a debt collector is a communication covered by the FDCPA.

8. Defendant reported the Alleged Debt on Plaintiff's credit report.

9. Plaintiff disputed this debt directly with the Defendant with a dispute letter on July 30, 2015.

10. Plaintiff examined her credit report on September 17, 2015 and found that Defendant had not removed the credit account nor marked it as "disputed by consumer" despite being required to do so by the FDCPA.

11. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**(Violations of the FDCPA)**

12. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

13. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692e(2), 1692e(5), 1692e(8), and 1692f.

14. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

**DEMAND FOR TRIAL BY JURY**

15. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which Plaintiff is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

- a) For actual damages provided and pursuant to 15 U.S.C. § 1692k(a)(1);
- b) For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c) For attorney fees and costs provided and pursuant to 15 U.S.C. § 1692k(a)(3);
- d) A declaration that the Defendants practices violated the FDCPA; and
- e) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Dated: Hackensack, New Jersey  
November 18, 2015



RC Law Group, PLLC  
By: Matthew Sarles, Esq.  
285 Passaic Street  
Hackensack, NJ 07601  
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Fax: 201.282.6501